

HOUSE BILL 35

By Maggart

AN ACT to amend Tennessee Code Annotated, Title 37;
Title 39 and Title 40, relative to prostitution.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-513, is amended by adding the following as a new, appropriately designated subsection:

() Notwithstanding anything in this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult and shall be subject to the protective custody of the department of children's services as a possible victim of child sexual abuse, pursuant to § 37-1-113. A law enforcement officer who takes a person under eighteen (18) years of age into custody for a suspected violation of this section shall immediately report the suspected child sexual abuse to the department of children's services, pursuant to § 37-1-605. The department shall commence an initial investigation into the suspected child sexual abuse within twenty-four (24) hours of the report, pursuant to § 37-1-606.

SECTION 2. Tennessee Code Annotated, Section 39-13-514, is amended by adding the following language as a new, appropriately designated subdivision to subsection (b):

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(A) Patronizing prostitution from a person who is younger than eighteen (18) years of age or is mentally defective is a Class E felony. It is an affirmative defense to a charge of patronizing prostitution from a person who is younger than eighteen (18) years of age or mentally defective that the accused reasonably

believed the person was eighteen (18) years of age or older or was not mentally defective at the time of the act giving rise to the charge.

(B) Nothing in this subdivision (b)() shall be construed as prohibiting prosecution under any other applicable provision of law.

SECTION 3. Tennessee Code Annotated, Section 39-13-512, is amended by adding the following language as a new subdivision (5) and redesignating the subsequent subdivisions accordingly:

(5) "Promoting prostitution of a minor" means engaging in any of the activities described in subdivisions (4)(A) through (4)(F) when one (1) or more of the persons engaged in prostitution is less than eighteen (18) years of age or mentally defective;

SECTION 4. Tennessee Code Annotated, Section 39-13-515, is amended by redesignating the existing language as subsection (a) and adding the following as a new, appropriately designated subsection:

() Promoting prostitution of a minor is a Class D felony.

SECTION 5. Tennessee Code Annotated, Title 39, Chapter 13, Part 5, is amended by adding the following as a new, appropriately designated section:

(a) In addition to any other penalty provided by law, a law enforcement officer who arrests a person for a violation of §§ 39-13-513, 39-13-514, 39-13-515, 39-13-516, 39-13-528, or 39-13-529, may tow and impound any motor vehicle used in the commission of the offense. The person arrested for one (1) or more such violations shall be charged a one thousand dollar (\$1,000) fee, to be paid to the arresting agency. The arresting agency shall hold the fee until the arrest results in conviction, acquittal, or dismissal of any resulting charges. The person may recover the vehicle from the impound after a minimum of two (2) hours after arrest upon payment of the fee.

(b) Five hundred dollars (\$500) of the fee shall be distributed to the arresting agency for the costs incurred to tow and impound the vehicle. Upon the person's conviction of one (1) or more of the offenses in connection with which the vehicle was impounded and the fee imposed under this section, the remaining five hundred dollars (\$500) of the fee shall be deposited into the child abuse fund as established by § 39-13-530.

(c) Upon presentation by the arrested person of a signed court order showing that the arrested person has been acquitted of all of the offenses in connection with which the vehicle was impounded and a fee imposed under this section, or that the charges against the arrested person for those offenses have been dismissed, the arresting agency shall refund the one thousand dollar (\$1,000) fee to the arrested person.

SECTION 6. This act shall take effect upon becoming a law and shall apply to any acts committed on or after such effective date, the public welfare requiring it.